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7

8 **UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF CALIFORNIA**  
9

10 MICHAEL SCHULZE, ) 1:05-cv-00180-AWI-LJO  
 )  
11 Plaintiff, ) **DEFENDANTS' EX PARTE**  
 ) **APPLICATION FOR EXTENSION OF**  
12 v. ) **TIME BY WHICH TO FILE**  
 ) **DISPOSITIVE MOTIONS; [PROPOSED]**  
13 FEDERAL BUREAU OF ) **ORDER**  
INVESTIGATION, DRUG )  
14 ENFORCEMENT ADMINISTRATION, ) [Local Rule 6-144(c)]  
UNITED STATES MARSHALS )  
15 SERVICE and DEPARTMENT OF )  
JUSTICE, )  
16 Defendants. )  
17 )

18 Pursuant to Local Rule 6-144(c), defendants Federal Bureau  
19 of Investigation, Drug Enforcement Administration, United States  
20 Marshals Service and Department of Justice ("defendants") request  
21 by way of this ex parte application a sixty-day extension of time  
22 by which all parties must file dispositive motions in this case.  
23 The present dispositive motion deadline is January 20, 2007.<sup>1</sup>  
24 Defendants seek to extend this deadline until March 20, 2007, and  
25 have not previously sought an extension of this deadline.  
26

27 <sup>1</sup> The undersigned notes that this date falls on a Saturday.

1 Defendants base this application on good cause, and explain  
2 as follows:

3 1. On January 20, 2006, this Court issued a Discovery and  
4 Scheduling Order regarding this case. (Doc 35). Within this  
5 order, the Court set a dispositive motion filing deadline of  
6 January 20, 2007.

7 2. On December 11, 2006, the undersigned counsel for  
8 defendants attended the pretrial conference regarding United  
9 States v. 43.77 Acres, Case No. 1:03-cv-06065 AWI/LJO. Within  
10 this conference, counsel learned that trial in that case will  
11 definitively go forward on January 17, 2007, and will last  
12 approximately five weeks. (Declaration of Brian W. Enos ("Enos  
Decl."), para. 4)

13 3. The 43.77 Acres matter comprises a complex eminent  
14 domain matter that was consolidated from five separate district  
15 court cases in 2004. This case involves many experts, and scores  
16 of parcels of real property. (Enos Decl., para. 5)

17 4. In addition to receiving the Court's deadlines  
18 regarding normal pre-trial matters, the undersigned counsel also  
19 learned pursuant to this conference that he will need to take  
20 additional and previously unexpected depositions prior to trial.  
21 (Enos Decl., para. 6) It is anticipated that this case will take  
22 virtually all of counsel's time through trial, in addition to  
various late nights and weekends. (Ibid.)

23 5. Regarding this case, it has recently been learned that:  
24 (1) personnel assigned to this case from the FBI will be  
25 unavailable from approximately December 22, 2006 through January  
26

1 2, 2007, (2) personnel for the USMS assigned to this case will be  
2 unavailable from approximately December 22, 2006 through January  
3 8, 2007 and (3) personnel for the DEA will be unavailable the  
4 entire week from Christmas until New Year's except December 28,  
5 2006, as well as January 5, 2007. (Enos Decl., para. 7)

6 6. Based on the above, an additional 60 days is needed to  
7 prepare and file defendants' dispositive motion in this case.  
8 Counsel's impacted schedule, coupled with the above trial and  
9 intermittent unavailability of relevant agency representatives  
10 provides good cause for this request. (Enos Decl., para. 8)

11 7. Due to plaintiff's present status within the Bureau of  
12 Prisons, a timely stipulation cannot reasonably be obtained.  
13 (Enos Decl., para. 9) In addition, this is the first time  
14 defendants have sought an ex parte application for an extension  
15 of time by which to file dispositive motions. (Ibid.)

16 8. Due to plaintiff Schulze's present status within the  
17 Bureau of Prisons and attendant inability to timely address  
18 issues raised in these application papers, the undersigned feels  
19 it is appropriate to expose the Court to eight letters attached  
20 to his declaration in support of this application. These letters  
21 are each dated within the August through December 2006 time  
22 frame. (Enos Decl., para. 10, Exh. A) Within these letters (and  
23 as specified in the above declaration), Mr. Schulze indicates  
24 that he expects to be released on time-served at a re-sentencing  
25 hearing in January 2007. (Ibid.)  
26  
27

1        9. A timely stipulation extending time cannot be  
2 reasonably obtained, in that plaintiff, acting pro se, is  
3 presently incarcerated. (Enos Decl., para. 11)

4        10. In light of the foregoing, defendants respectfully  
5 request the Court to extend the parties' deadline by which to  
6 file dispositive motions in this case by 60 days, or through  
7 March 20, 2007. In light of the above, good cause supports this  
8 application.

Respectfully submitted,

9 Dated: December 21, 2006

McGREGOR W. SCOTT  
United States Attorney

11  
12 By: /s/ Brian W. Enos \_\_\_\_\_  
13 BRIAN W. ENOS  
14 Assistant U.S. Attorney  
15 Attorneys for defendants  
16 Federal Bureau of  
Investigation, Drug  
Enforcement Administration,  
United States Marshals Service  
and Department of Justice

**ORDER**

17  
18 IT IS SO ORDERED.

19 **Dated: December 22, 2006**  
20 66h44d

**/s/ Lawrence J. O'Neill**  
**UNITED STATES MAGISTRATE JUDGE**